

## CALIFORNIA COASTAL COMMISSION

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W12



## MEMORANDUM

January 27, 2005

TO: Commissioners and Interested Parties

FROM: Charles Lester, Deputy Director  
Steve Monowitz, Coastal Planner

RE: **Annual Review of Coastal Development Permit Amendment 4-82-300-A5 for the Oceano Dunes State Vehicle Recreation Area (ODSVRA), San Luis Obispo County.** For public hearing and possible Commission action at its meeting of February 16, 2005 in Monterey

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**I. Summary:**

The Oceano Dunes Recreational Vehicle Area (ODSVRA), at the northern end of the Nipomo Dunes complex in southern San Luis Obispo County, is a popular destination for off-highway vehicle (OHV) recreation, and supports important habitat for numerous species of rare plants and animals, including significant nesting areas for the threatened Western snowy plover and the endangered California least tern. Pursuant to the terms of a 1982 Coastal Development Permit (CDP) issued for new park facilities, the Commission has periodically reviewed whether recreational use limits and resource management measures are effectively protecting the environmentally sensitive habitat areas of the park. As amended in 2001, CDP 4-82-300-A5 established a Technical Review Team (TRT) and Scientific Subcommittee to analyze resource protection issues and advise the ODSVRA on management measures. The conditions of that amendment require the permit to be renewed annually by the Commission, at which time the Commission may institute an alternative approach to resource management and/or require implementation of specific management measures.

**II. Staff Recommendation:**

Staff recommends that the Commission take no action to change the terms of Coastal Development Permit 4-82-300-A5, and send a letter to the ODSVRA Superintendent requesting implementation of the Technical Review Team's Scientific Subcommittee recommendations attached as Exhibit 5, which should be supplemented to include a recommendation on the proposed method of protecting and enhancing the habitat quality of the protected nesting area. The letter should also identify the overdue work products that must be completed by the TRT and its Scientific Subcommittee in order to carry out the terms of CDP 4-82-300-A5. Finally, the letter should request the Superintendent to work with the Scientific Subcommittee to better understand the cause of the decline in plover fledgling rates experienced during the 2004 nesting

season, and to improve monitoring, management and reporting procedures in a manner that would improve tracking and protection of plover fledglings. A draft letter is attached as Exhibit 1.

### **III. Background:**

In 1982 the Coastal Commission approved Coastal Development Permit (CDP) No. 4-82-300 for the construction of habitat fencing and entrance kiosks at Oceano Dunes State Vehicular Recreation Area (ODSVRA). That permit and subsequent amendments have established limits to the numbers of vehicles and campsites allowed, and required ongoing reviews to ensure that off-highway vehicle (OHV) recreation is managed consistent with the protection of sensitive dune habitats.

The various amendments to CDP 4-82-300 have employed different procedures to review whether management measures are effectively protecting the environmentally sensitive habitat areas contained within the park. On February 14, 2001, the Commission endorsed State Park's proposal to establish a Technical Review Team (TRT) as an alternative to the carrying capacity approach established in 1994. The TRT was created to oversee monitoring of environmental and use trends in the Park, and to advise the Superintendent on resource management issues. As a condition of Commission approval, the TRT was required to include a Scientific Subcommittee that was to identify, develop and evaluate the scientific information needed by decision makers to ensure that the natural resources are adequately managed and protected. The Commission also required the permit to be renewed annually. Specifically, Special Condition 2 states:

**Renewal of Permit.** Annually, the Commission shall review the overall effectiveness of the Technical Review Team in managing vehicle impacts at the ODSVRA. If the Commission is satisfied with the review, this amendment will remain in effect for an additional year. A longer permit may be requested in the future. Otherwise, an alternative approach to resource management, or set of management measures, may be instituted through this review process.

This is the fourth annual review conducted since the 2001 amendment, which remains in effect as originally approved. Although the Commission has not modified permit conditions in previous reviews, it has requested implementation of specific management measures. In 2003, the Commission voted 7 to 1 to recommend that State Parks expand the portion of beach seasonally closed to recreational use in order to protect Snowy Plover and Least Tern nesting areas. This expansion was carried out late in the 2003 season, and therefore provided little benefit to breeding plovers.<sup>1</sup> In 2004, the Commission requested that State Parks reconsider its decision to reject the Point Reyes Bird Observatory (PRBO) and Scientific Subcommittee's

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<sup>1</sup> Scientific Subcommittee analysis of management measures implemented in 2003.

recommendation to close the nesting area on a year-round basis in order to protect habitat quality<sup>2</sup>. This measure was not implemented by State Parks in 2004.

#### **IV. Analysis:**

##### **A. Summary of 2004 Nesting Season**

The 2004 nesting season was marked by a substantial increase in the number of snowy plovers using the beach and dune habitat of the park, with 147 nests counted, in comparison to 95 nests in 2003. However, there was a notable reduction in fledgling rates; only 66 of the 263 (25%) snowy plover chicks that hatched successfully fledged, in comparison to the 68% fledgling rate documented in 2003, and 56.5 % in 2002. The 2004 nesting report prepared by State Parks states that predation is suspected to be the major factor in this decline. State Parks has been implementing a predator control program since 2002. The nesting report does not offer an explanation or hypothesis as to why the predator control program was not as successful in protecting plover chicks in 2004, or if other factors may underlie the decline in fledge rate.

Appendix F to the 2004 nesting report documents five events of predation that resulted in the death of six snowy plovers (two adults and four chicks), and ten plover deaths (three adults and seven chicks) for reasons other than predation. One of these deaths occurred from entanglement within the mesh top of an enclosure.<sup>3</sup> The remaining nine documented non-predatory related plover deaths were attributed to “unknown causes”, and necropsy reports were not provided, despite the 2003 recommendations of the TRT and the Coastal Commission to include such reports. The fate of the remaining 181 plover chicks that hatched, but did not fledge, is undocumented. In an effort to understand the cause of the significant decline in fledgling rates and avoid any further declines in the future, the letter recommended by staff requests the Superintendent to work with the Scientific Subcommittee to update monitoring, management and reporting procedures in a manner that would improve tracking and protection of plover fledglings.

Nesting by the California least tern at the park occurred at lower levels in 2004 than in 2003, with a reduction from 79 nests last year to 63 nests this year. There was also a reduction in clutch hatching rates; from 76% in 2003 to 70% in 2004. The 2004 nesting report estimates that at least twenty-five of the sixty-nine least tern chicks that hatched (36.2%) successfully fledged. The 2004 nesting report does not include estimates of least tern fledgling rates for previous years. (Data regarding fledgling rates is not as readily available for least terns as for plovers due to differences in behavior and monitoring techniques.) Appendix F to the report documents the death of 7 least terns (3 chicks and 4 juveniles) to predation, the death of a juvenile tern to disease, and the death of one tern chick to unknown causes.

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<sup>2</sup> March 22, 2004 letter from Chairman Mike Reilly to State Parks Director Ruth Coleman, attached as Exhibit 2

<sup>3</sup> Single nest exclosures with mesh tops were erected in the southern portion of the nesting area to protect nests from ravens. Mesh tops were removed immediately after the plover death from entanglement was documented.

The TRT's Scientific Subcommittee reviewed the 2004 nesting season report, and prepared recommendations and comments that are attached to this report as Exhibit 5. The subcommittee comments state "looking at the big picture, it was not a bad year", despite the reduction in the snowy plover fledgling rate. This assessment is based on an increased use of the area by plovers, very good hatch rates, a fledgling rate of about one chick per male plover (a goal of the US Fish and Wildlife Service Draft Recovery Plan), and the "tremendous amount of effort that has been expended to make the program at ODSVRA successful."

#### **B. Evaluation of TRT Effectiveness**

As required by the conditions of 4-82-300-A5 (attached as Exhibit 3), the TRT, now in its fourth year of operation, should be making management recommendations to the superintendent based on the findings of priority research tasks. The TRT should also be updating research tasks, taking into consideration the specific resource management issues identified by Special Condition 5. Pursuant to this condition, the TRT and the ODSVRA Superintendent must prepare an annual report providing a summary of these activities.

The cover letter for the submitted fourth annual report is attached as Exhibit 4, and its various attachments can be obtained by contacting the Commission staff (the full report will be available for review at the February 16, 2005 public hearing). The report partly addresses the requirements of Special Condition 5 by providing a summary of recreational use, and highlighting TRT and Scientific Subcommittee activities and accomplishments during 2004. The report indicates that 2004 recreational use levels stayed within the limits established under CDP 4-82-300-A5, and that the TRT's evaluation of management issues was primarily focused on a review of the 2004 nesting season report. The TRT also reviewed and discussed a report on steelhead monitoring in lower Arroyo Grande creek.

While the TRT continues to provide a forum for stakeholders to discuss annual nesting reports and monitoring and management techniques, it has not made progress in identifying and completing the scientific studies required to maximize the effectiveness of resource protection. In December 2002, the Scientific Subcommittee identified and ranked six research and management topics. The staff report prepared for the Commission's 2003 Annual Review identified that "further development and implementation of these studies will be an important step for the TRT to complete as soon as possible, so that the research can be applied to the development of long-term management measures in coordination with the Habitat Conservation Plan currently under development". The staff report for the 2004 review states that "the continued lack of progress in this regard has interfered with the TRT's ability to provide the level of input on park management issues envisioned by CDP 4-82-300-A5".

The TRT's attention to research priorities remains generally the same as that which was reported to the Commission in 2004. The top two studies identified by the Scientific Subcommittee in 2002 (an evaluation of the impacts of nighttime recreational vehicle riding, and an analysis of wintering shorebirds) are underway, but are not available for review. To date, the TRT has not taken any action to prioritize the research tasks identified by the Scientific Subcommittee. Nor has the TRT or the scientific subcommittee reviewed scopes of work for these studies, as

required by Special Condition 5. Special Condition 5 also requires annual reports to identify the basis under which the TRT prioritized its work for the year. Such a discussion is not contained in this year's report.

As a consequence of these deficiencies, the TRT has only partially achieved the objectives laid out by CDP 4-82-300-A5. Although it has provided a forum for stakeholders to express their concerns and opinions, and the opportunity for scientific review of annual nesting season reports, it has not fulfilled its mandate to systematically pursue the scientific information that would enable more informed decisions on resource management issues. The letter to the State Park's superintendent, recommended by staff, attempts to address this problem by encouraging greater focus on this work in 2005.

## **B. Evaluation of Current Management Measures**

The breeding success of the local and regional populations of snowy plover and least tern that use the Oceano Dunes plays an important role in the statewide recovery effort of these species. Continued and improved protection of the threatened Western Snowy plover and endangered California least tern at the ODSVRA is essential for the protection and enhancement of these rare biological resources. Towards this end, State Parks has been implementing a predator management program that has contributed to improved Snowy plover and Least tern fledgling success rates in 2002 and 2003. State Parks also continues to implement use limits, protective fencing, and other measures to minimize the impacts of recreational use on the parks sensitive habitat areas in accordance with the interim limits established by 4-82-300-A5, and in coordination with other wildlife agencies.

In evaluating the adequacy and effectiveness of these measures, issues raised in prior reviews include the size of the protected nesting area, and whether the nesting area should be protected on a year round basis. Specifically, with regard to size, there has been controversy regarding the appropriate boundary for the northern extent of the protected area. Prior to 2003, the seasonal enclosure extended south from post marker seven (see map attached as Exhibit 6). In 2002, PRBO, the Scientific Subcommittee, and the Coastal Commission recommended that State Parks extended the protective fencing to Post Marker 6. This was implemented in July 2003 pursuant to the terms of a legal settlement, and state continued to provide this larger area of protection during the 2004 nesting season (March 1 – September 31). It is expected that the protective fencing will again extend to Post Marker 6 during 2005, as recommended by ODSVRA staff.

With regard to the duration of protective measures, PRBO and the Scientific Subcommittee recommended, in 2003, that vehicles be excluded from the nesting area throughout the year, given the results of a test plot demonstrating that such a closure would result in beneficial habitat changes and increased nesting during the breeding season. Given the 72.7% increase in the number of nests in the test plot, balanced against a moderate to minor loss of off-season recreational value, the Commission requested State Parks to reconsider its decision to not implement the recommendation. Despite these recommendations, the year round closure of the

nesting area was not implemented by State Parks in 2004. The 2004 annual nesting report states, however, that:

*Discussions with the USFWS and CDFG have resulted in the closure of an 11 acre area from post #7 to the 7.4 reveg area to protect natural habitat features during the non-breeding season. This is an interim measure pending further evaluation and discussion. Consideration should also be given to the establishment of small islands throughout the southern exclosure area that would be fenced to protect a mosaic of natural features for the 2005 nesting season. This would be an alternative to the 11 acre closure and would not exceed 11 acres. This alternative will allow for managed recreational access, such as camping and OHV riding in the area.*

The 2004 nesting report further proposes to enhance habitat qualities within the nesting area immediately prior to the nesting season as follows:

*Habitat enhancement measures may include the planting of hummock forming native plants in fiber pots which would be removed during the non-breeding season, and the distribution of large amounts of natural materials including driftwood, shells, small rocks, and kelp at the onset of the breeding season. These measures should be attempted for the 2005 nesting season before other more aggressive measures are considered.*

This proposal not been specifically reviewed by the Scientific Subcommittee or the TRT as of the writing of this report. In the Commission staff's opinion, it is unlikely that the installing of potted plants and distributing natural materials will result in equivalent habitat quality to that which would be realized through a year round closure. In an effort to resolve this issue, the letter to State Parks that has been drafted by staff requests State Parks to pursue the Scientific Subcommittee's input, and to abide by their recommendation.

## **V. Conclusion:**

While the TRT continues to provide a useful forum for interested parties to discuss annual nesting results and monitoring and management techniques, it has not completed the work products required by CDP 4-82-300-A5, or demonstrated its ability to provide meaningful input on park management issues. Renewing CDP 4-82-300-A5 without change, and sending a letter to the ODSVRA Superintendent identifying the work that needs be completed to comply with the permit, will provide the TRT with the opportunity to address these needs, including the following:

- a prioritized list of research tasks;
- scopes of work for priority studies;

- reports on results of the investigations conducted pursuant to previously established priorities (i.e., studies regarding wintering shorebirds and the impacts of night time vehicle use); and,
- recommended changes to current resource management techniques that respond to the results of these studies.

The letter should also request that State Parks obtain and abide by the recommendations of the TRT's Scientific Subcommittee regarding:

- measures that should be implemented during the non-breeding season to protect and enhance the habitat quality of the nesting area; and,
- opportunities to update monitoring, management and reporting procedures in a manner that would improve tracking and protection of plover fledglings (e.g., as necessary to understand and address the decline in plover fledgling rates during the 2004 season).

**Attached Exhibits:**

Exhibit 1: Draft letter to ODSVRA Superintendent

Exhibit 2: March 22, 2004 letter from Chairman Mike Reilly to State Parks Director Ruth Coleman

Exhibit 3: Special Conditions of 4-82-300-A5

Exhibit 4: 2004 Annual Report Cover Letter

Exhibit 5: 2004 Scientific Subcommittee Recommendations

Exhibit 6: Park Map